

Economic Impact Statement

LSA Document #13-566

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Business**Description of rule**

These new rules repeal [75 IAC 2](#) and [75 IAC 4](#) and create [75 IAC 6](#), delete repetitive language, and update the procedures of the Division to coincide with current practices. The rules have not been modified since the Division was moved from the Bureau of Motor Vehicles to the Secretary of State's office. Many of the changes are technical corrections. The compliance requirements are also modified. These modifications have been made to protect consumers and ensure fair competitive business practices are maintained to protect licensed dealers. Under [IC 9-32-3-1](#), the Division is required to adopt rules before July 1, 2014.

Economic impact on small business**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

All Indiana licensed dealers and businesses who would like to be Indiana licensed dealers will be affected by the amended rules. As of January 31, 2014, the Auto Dealer Services Division of the Secretary of State's Office (Division) had 6,391 licensed dealers. The Division does not track the size and number of employees these licensed dealers employ. It is possible that several of these businesses may qualify as a small business under [IC 4-22-2.1-5](#).

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.

The amendments to this rule will not require any additional reporting, recording keeping, or other administrative costs to comply with the proposed rule.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

There will be no economic impact for compliance with the proposed rule. The Division is only elaborating on what is required by new [IC 9-32](#). These requirements have been enforced since [IC 9-32](#) became law.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule, and not expressly required by the statute authorizing the agency to adopt the rule, or any other state or federal law.

There will be additional costs if a licensed wholesale dealer's established place of business is not compliant by having basic utilities in their office space such as heat and electricity as required. This requirement is more specific than what is found in statute. The Division requires a safe environment for Division Investigators to visit when auditing Indiana wholesale dealers. Heat and electric are important elements to maintaining a safe environment. Also in the past there were issues with Indiana wholesale dealers not having a true established place of business located in Indiana being utilized as the primary business location for the wholesale dealer license. Having utilities at the established place of business leads to a more permanent business location and is one of many requirements. When an Indiana wholesale dealer does not have an Indiana established place of business, there is no way for the Division to verify sales records which leads to fraud and illegal retail sales in other states.

5. Regulatory flexibility analysis**A. Establishment of less stringent compliance or reporting requirements for small business.**

The reporting requirements for the Division are found in [IC 9-32](#). The rules do not increase the reporting requirements. The current reporting requirements found in [IC 9-32](#) should not be less stringent because record keeping is important to ensure less theft and fraud in the motor vehicle industry.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

It is not possible or desirable to establish less stringent schedules or deadlines for compliance for small businesses in this situation. These schedules are found in [IC 9-32](#).

C. Consolidation or simplification of compliance or reporting requirements for small business.

Consolidation or simplification of compliance or reporting requirements for small business is not desirable in this situation as there are already issues with dealer noncompliance and disregard for the minimal requirements the Division has to ensure consumer protection and fair business practices. Consolidation or simplification would only lead to more theft and fraud in the industry.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The standards that must be met are for all businesses including small and large businesses. The standards are minimal and must be continuously met.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

It is not sensible to exempt small businesses from any of the rule requirements or costs. Consistency of these requirements is necessary to ensure consumer protection and fair business practices.

Conclusion

This rule does not increase costs or impose burdensome requirements. All businesses, small, medium, or large must meet the same standards statewide in order to ensure consumer protection and fair business practices. The Secretary of State is given the authority to administer and enforce the policies and procedures of the Division.

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